REMARKS/ARGUMENTS

The present application discloses an apparatus, program product and method for recalling a previous program channel of interest from a current program channel, where the channel of interest is determined by the amount of time a user has previously spent on the channel. The amount of elapsed time a user spends on a program channel is monitored. If the elapsed time exceeds a predetermined threshold, the program channel is identified as a channel of interest. As the user switches from the channel of interest to subsequent broadcast channels (i.e., "surfs"), the channel of interest is retained in memory as long as the amount of time spent on any subsequent channel is less than the predetermined time threshold. If the amount of time spent on a subsequent channel is greater than the predetermined time threshold, the subsequent channel is identified and stored as the new channel of interest. At any time, the user may select a selective view function to return to the channel of interest from the currently selected channel [Abstract].

Reconsideration of the application is requested. Claims 1-19 remain in this application.

In section 1 of the Office Action, the Examiner objects to claims 16 and 17 because of the following informalities: on line 3 of both claims, a verb such as "broadcasting" is required between "a" and "seldom/frequently" or else "program" must be changed to "channel." Claims 16 and 17 have been amended to correct these informalities.

In section 1 of the Office Action, the Examiner rejects claim 13 under 35 U.S.C.§ 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Claim 13 has been amended to address the Examiner's concerns and thereby overcome this rejection. Accordingly, Applicants submit that claim 13, as amended, is not indefinite under 35 U.S.C. §112 for failing to particularly point out and distinctly claim the subject matter of the invention.

In section 5 of the Office Action, the Examiner rejects claims 1-3, 11, and 18 under

35 U.S.C. §103(a) as being unpatentable over Amano et al. (U.S. 5,323,250) in view of

Saib et al. (U.S. 6,505,346). Applicants respectfully traverse this rejection.

Amano et al. provides a TV receiver having a tuner and controller for controlling a tuning

operation of the tuner. The controller includes a calculation unit for effecting a calculation of

preferred stations using as parameters tuned channels and the times for which the channels are

selected. A tuning frequency arrangement storing unit determines the channels that are

frequently watched by a user on the basis of the calculation and stores indications of the

channels. The channel indications thus stored are read out in ranked order to perform a tuning

operation in response to successive actuation of a preferred-station key [Abstract].

Saib et al. allows a user to store up to five stations in a JUMP Loop sequence during a

single viewing period by depressing a single key in a remote controller [Abstract].

With regard to claim 1, the present invention stores **a single channel of interest** based on

a monitoring of elapsed time spent on a first channel and storing the first channel as the channel

of interest if the elapsed time spent on the first channel exceeds a predetermined time threshold.

If a user switches to a plurality of additional channels (wherein the elapsed time spent on the

additional channels does not exceed the predetermined time threshold), the user can directly

return to the channel of interest from one of the plurality of additional channels by a single

activation of a selective view function. Thus, the present invention stores **a single channel of**

interest which can easily be recalled by **a single activation of the selective view function** (e.g.,

by depressing a favorite channel button).

In contrast to the present invention, Amano et al. requires that a user push the "favorite

channel" button as many as ten or more times to find the user's favorite channel. As stated in

col. 2, lines 1-4 of Amano et al., "...broadcast channels from first to tenth ranking of tuning

frequency or more can be successively displayed and selected". Thus, as stated by the Examiner,

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"Amano's method differs from the claimed method in that: it stores multiple channels of interest as opposed to one, it ranks these channels according to the time spent watching each, and its function uses an algorithm to scroll through the multiple channels of interest, based on ranking, as opposed to simply recalling a single channel of interest."

There are advantages to the method, apparatus and program product of the present invention over the solution presented by Amano et al. In the solution of the present invention, the user can simply push a single button to return his/her favorite channel, as opposed to potentially cycling through a large number of favorites, as presented by Amano et al. The solution of the present invention is simpler to design and implement, requires less hardware (i.e., additional memory space is not required for the additional channels), and is easier for the user to learn and use.

With regard to Saib et al, the Examiner cites the following passage from the background section of the patent:

> "...The JUMP function therefore allows the user to jump between the two most recently tuned stations instead of "surfing" through all the possible channels between the two stations. It follows that if the TV is tuned to station A and user tunes to station C, the subsequent selection of the JUMP function will cause the TV to tune back to station A and toggling is achieved between station A and Station C using the JUMP button."

The present invention is distinguishable over Saib et al. in that the jump described in the background section of Saib et al. is referring to "recently tuned stations", not "favorite" stations as described in the present invention. These two terms do not describe the same thing. As an example, the most recently turned station can simply be the last station through which a user surfed on the way to a destination station. Thus, the user may only have spent a fraction of a second on the "most recently tuned" station, and has no particular interest in the station. A "station of interest" (i.e.,"favorite" station), as defined by the present invention, is a station on which a user has spent at least an elapsed time greater than a predefined time threshold.

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Applicants respectfully submit that both Saib et al. and Amano et al. **teach away** from the present invention, since both assign multiple channels to their "jump" or "favorite channel" recall buttons. Saib's invention provides up to five stations to be assigned to the jump loop function (column 1, lines 57-60). Thus, the user of the Saib et al. invention will be forced to push the "jump" button multiple times to find a channel of interest, and even then, there is no guarantee that the user's favorite channel (i.e., favorite being based on the amount of time spent on the channel) will even be in the jump loop. Similarly, Amano et al. requires that a user push the "favorite channel" button as many as ten or more times to find the user's favorite channel from a plurality of saved channels (col. 2, lines 1-4). Moreover, Saib et al. **specifically teaches away** from the single channel jump button prior art cited in the background of the patent by the Examiner through the "improvement" of assigning up to five stations to the jump loop, thus forcing the user to hit the jump button successive times.

Applicants further submit that remote controls for televisions are ubiquitous today and have been around since Zenith introduced the "Lazy Bones" remote in 1950. The Kenan reference (U.S. 5,161,023), **filed in 1992** and cited by the Examiner as background art, provides an easy return to previously tuned channel via a specific key. The Amano et al. reference, **filed in 1993**, discussed storing a plurality of favorite channels. Yet, in the **intervening 12 years**, no one has thought to combine the simple recall of a single previously tuned channel with the concept of storing a single favorite channel based on viewing time, as is done in the present invention. Thus, Applicants respectfully submit that if the present invention was indeed obvious, it would have been done in the twelve intervening years between the filing of the Kenan and Amano et al. references and the filing of the present invention. Thus, Applicants respectfully submit that claim1 is allowable and should be passed to issuance.

Regarding claims 11 and 18, both claim storing a single channel of interest which can easily be recalled by a single activation of the selective view function, as previously discussed in

claim 1. Thus, for the same reasons cited above for claim 1, Applicants respectfully submit that claims 11 and 18 are now also in condition for allowance.

Regarding claims 2 and 3, both depend directly from claim 1, which, for reasons stated above, is submitted as being in condition for allowance. Thus, Applicants respectfully submit that claims 2 and 3 are now also submitted as allowable.

In section 11 of the Office Action, the Examiner rejects claims 4-10 and 12-17 under 35 U.S.C. §103(a) as being unpatentable over Amano et al. in view of Saib et al., and further in view of Schlack et al. (U.S. 2002/0129368). Applicants respectfully traverse this rejection.

Schlack et al. provides a method of characterizing or profiling one or more viewer's, by monitoring and processing at the viewer set-top or receiver, each viewer's interactivity (e.g., via a remote control unit) with the set-top receiver, and then generating one or more profiles for each viewer based on one or more of the multitude of interactions of each view and on, in general, the viewing habits and preferences of the viewer. Such viewer identification and profile generation can be used to facilitate the delivery of targeted content including targeted content including targeted advertising [paragraph 69].

The invention of Schlack et al. is shown as being implemented within various television delivery networks. The three embodiments discussed within Schlack et al. include digital broadcast satellite (DBS) [paragraph 121], cable TV (CTV) [paragraph 122], and very high speed digital subscription line (VDSL) [paragraph 123], shown generally in Figure 1. All three embodiments described within Schlack et al. involve subscription based services, which necessitate a fee-based service provider to provide targeted content, including targeted advertising.

In contrast to Schlack et al., the present invention does not require an entire subscription based television delivery network in which it may operate. It can operate equally effectively with

free, over-the-air television as it can with subscription based services. The present invention does not rely on specific source information specifically packaged, tagged, and delivered by a DBS, DTV, or VDSL in order to perform its functions.

Also, the present invention does not require the set-top box to send viewing information "upstream" as is described in Schlack et al. (see paragraphs 121, 122, and 123 of Schlack et al.) back to the subscription based service provider. Thus, the present invention **can be completely incorporated within the set-top box/tv itself**, and **does not require an entire, subscription based TV delivery network to function**.

Claims 4-10 and 12-17 rely, either directly or indirectly, on independent claims 1 and 11, which, for reasons stated above, are submitted as allowable. Thus, claims 4-10 and 12-17 are also now submitted as being in condition for allowance.

In section 23 of the Office Action, the Examiner rejects claim 19 under 35 U.S.C. §103(a) as being unpatentable over Amano et al. and Saib et al. as applied to claim 18 above, and further in view of Meadows (U.S. 4,060,839). Applicants respectfully traverse this rejection.

Claim 19 relies directly from independent claim 18, which, for reasons stated above, is submitted as allowable, Thus claim 19 is also now submitted as being in condition for allowance.

In view of the foregoing comments and amendments, the Applicants respectfully submit that all of the pending claims (i.e., claims 1-19) are in condition for allowance and that the application should be passed to issue. The Examiner is urged to call the undersigned at the below-listed telephone number if, in the Examiner's opinion, such a phone conference would expedite or aid in the prosecution of this application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

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(Date of Deposit)

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